

conditions that violated ministerial duties compelled under state and federal law (First Amended Complaint).

Prior to discovery, Defendants filed a Motion for Summary Judgment on all of Plaintiff's claims [18]. The Court granted Plaintiff's Fed. R. Civ. P. 56(f) motion requesting discovery prior to filing a response to Defendants' summary judgment motion. (See Order dated June 26, 2009 [28].) The Parties subsequently exchanged initial disclosures and engaged in limited discovery. Plaintiff then filed this Motion requesting from the Court leave to either dismiss the current action without prejudice and pursue claims against different individuals or amend the Complaint to add parties and additional causes of action. (Dkt. No. [51] at 7-8.)

Upon review, the Court finds that Plaintiff has made the requisite showing under Fed. R. Civ. P. 15(a) such that leave should be granted to amend the Complaint to add the new claims and relevant parties. Plaintiff is **DIRECTED** to file the amended complaint and serve the requisite parties within fourteen (14) days of this Order.

Further, the Court finds that Defendants' Motion for Summary Judgment is ripe and that Defendants are entitled to consideration of the merits of their motion. Defendants have expended considerable resources in preparing such

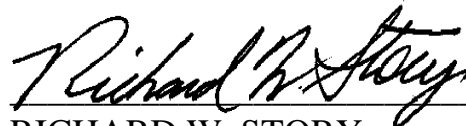
motion, and delaying consideration would result in undue prejudice.

Accordingly, Plaintiff is **FURTHER DIRECTED** to respond to Defendants' Motion for Summary Judgment [18] within twenty-one (21) days of this Court's Order. Defendants may then file a reply within fourteen (14) days after service of the response.

Conclusion

Plaintiff's Motion for Leave to Dismiss Without Prejudice [51-1] is **DENIED** and Plaintiff's Alternative Motion for Leave to Amend and Add Parties [51-2] is **GRANTED**. Plaintiff is **DIRECTED** to file the amended complaint and serve the requisite parties within fourteen (14) days of this Order. Plaintiff is **FURTHER DIRECTED** to respond to Defendants' Motion for Summary Judgment [18] within twenty-one (21) days of this Court's Order. Defendants may then file a reply within fourteen (14) days after service of the response.

SO ORDERED this 5th day of February, 2010.



RICHARD W. STORY
UNITED STATES DISTRICT JUDGE